

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

March 2, 2020

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall on Monday, March 2, 2020 at 7:00PM. The meeting was called to order by President Gregg Hixenbaugh all were asked to stand for the Pledge of Allegiance lead by Boys Scout Troops Local 572.



Roll Call.

Present: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh.

Others present; Mike Trippel, Council Attorney and Raven Boston, Deputy Clerk.

Minutes for the Regular meeting of February 17, 2020 were approved as received from the Clerk's Office.

Clerk Block read appeals and petition from the City Plan Commission and the Board of Zoning Appeals regarding their recommendations from the February 11th meeting.

APPEAL NO. 2020-05

Use Variance to permit an Accessory Structure (Maintenance Bldg.) on a lot without a Primary Structure at the SE corner of Comfort Place & N. Pine Street

APPEAL NO. 2020-06

Use Variance to allow Furniture Retail & Showroom at 403 & 411 S. Main St.

PETITION NO. 2020-04

Rezone area South of Retention Area from R-1 Single Family to C-1 General Commercial 4019 & 4021 LWE

Clerk Block read the following vacation by title and opened a public hearing.

A public hearing on Vacation R2020-01 required by State Statute on behalf of Mishawaka High School Vacating areas of N. Wenger Ave. between LWE and Homewood – The East 63' of the East/West alley North of LWE – all alleys bounded by Homewood on the North, Indiana on the West, Wenger on the East.

Daryl Knip, Abonmarche, spoke in favor of the vacation and requested approval. Mr. Knip stated the plan was being proposed to remove the road going through campus for the safety of students and guests of Mishawaka High School. He stated three new drop-off areas were also proposed in the plan to improve traffic flow going through the school grounds.

Mrs. Voelker asked Mr. Knip to clarify the location of parking on Indiana. Mr. Knip explained parking would be on the west side from Lincolnway to Homewood, with added drop off lanes on the eastside.

Mr. Mammolenti thanked Mr. Knip for all the information he requested. He went on to ask if any informational meetings were held. Mr. Knip stated a meeting was held last summer on June 27th at Mishawaka High School inviting the neighborhood to attend. Mr. Mammolenti also questioned if there were any major concerns addressed at the meeting. Mr. Knip said there was a concern regarding the front doors on Indiana but those with concerns agreed after the presentation was given.

Mike Faulkner, Director of Operations for School City of Mishawaka, also spoke in favor of the vacation. Mr. Faulkner requested approval on behalf of the school corporation and stated the approval would allow the school to move forward with pedestrian traffic safety on campus. He mentioned HRP Construction was scheduled to start the project on March 16th, beginning with the demolition of homes on Indiana and Homewood. Mr. Faulkner also relayed updates would be posted on the school website, it would also allow feedback regarding any concerns or questions. He concluded by thanking Chris Jamrose, City Engineer and Ken Prince, City Planner, for their work and efforts.

Mr. Bellovich asked was the home on the corner of Homewood and Indiana and the home directly south vacant. Mr. Faulkner replied yes, both properties were vacant. He said the Mishawaka Fire Department was using one of the homes for training.

Mrs. Voelker asked how communication on the project would be distributed throughout neighborhood. Mr. Faulkner made it clear fliers would be passed out around the area with contact numbers included. Mrs. Voelker also questioned the timeline for the project to be finished. Mr. Faulkner said the deadline was July 31st of the upcoming school year.

Mr. Hixenbaugh closed the public hearing at 7:16PM.

Clerk Block read the following resolution by title and opened the public hearing.

RESOLUTION NO. 2020-02

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT:

4416 Lincolnway E

**Use Variance to allow a contractor's business on a new building addition on an existing
house (Pending R-1 District)**

Tiffany Gilbert, Current Tenant of 4416 Lincolnway E, spoke on behalf of the property owners. Mrs. Gilbert requested approval for 4416 Lincolnway E to be rezoned to R-1 single family residential. She stated the rezoning would allow her to obtain a mortgage to make it her primary residence. Ms. Gilbert stated she wanted the use variance to be able to house her snow removal and lawn maintenance equipment for her business properly. She also clarified the business would not be ran out of the addition; it would only be used for storage purposes.

Mr. Banicki asked where vehicles for the business were stored and how many employees did they have. Ms. Gilbert stated the business consisted of herself and her boyfriend. She continued to say they owned 3 trucks and 2 plows for their business. Ms. Gilbert stated all vehicles would be stored inside the building.

Mr. Mammolenti asked where the equipment was currently being stored. Ms. Gilbert said everything was being stored outside behind the house.

Mr. Hazen clarified the Plan Commission made it clear there would not be any outside storage after the addition of the building.

Mr. Compton expressed confusion on the construction of the building, he asked for clarification later in the public hearing.

Mr. Hixenbaugh expressed his concern regarding parking, he asked what opportunity Ms. Gilbert would foresee for someone else, other than herself and her boyfriend, to be tempted to park on the property. Ms. Gilbert stated anyone they hire would park in the building after the equipment was removed for the business.

Mr. Hixenbaugh asked Ms. Gilbert to be diligent about outside parking, not letting it become a future problem.

Ken Prince, City Planner, addressed Mr. Compton's confusion by explaining the plan. He said they sat down with the petitioner to see what direction to go due to the bank denying the loan to individuals who lived in a building zoned commercial. Mr. Prince continued to say this occurrence was a glorified home occupation, not an operation where employees were coming and parking. He said the use variance was obtained to accommodate the business and to allow the property to be reused as residential in the event of it being sold to another owner in the future, because the building being requested could serve as more parking or personal storage.

Mr. Hazen proclaimed there was a neighborhood meeting held to address the restrictions, he advised the residents in the area he would keep a close eye on the property to make sure no equipment was left outside. Mr. Prince added personal trucks or campers could be parked outside of the storage unit, because it was still being used as a residence. He continued to say it was only equipment associated with the business that could not be stored outside.

Mr. Hixenbaugh clarified if the property is sold to another owner, the conditions and restrictions would follow and be attached with the new owner.

Mr. Emmons expressed concerns regarding the business being used as a residence and wanted clarification on the usage of the building. Mr. Emmons asked Mr. Prince to explain what would happen if the restrictions were not followed. Mr. Prince said the owner would be given citations asking to comply and possibly taken to court for noncompliance.

Mr. Hixenbaugh stated how vitally important it was to the council the conditions and rules were followed as stated.

Question was called for at 7:36PM for **RESOLUTION 2020-02**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh.

Clerk Block read the following proposed ordinances by title and were opened for public hearing.

PROPOSED ORDINANCE NO. 2020-01

**AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF MISHAWAKA, INDIANA PROVIDING ZONING CLASSIFICATION FOR ZONE C-1
54655 FIR RD**

(Future expansion and additional parking for its adjacent office development in The Plaza at Day & Fir Rd) **VOTE ONLY**

Mr. Bellovich reported the Committee of Land Use Planning recommended this proposed ordinance should be adopted. This was signed by the entire the committee upon a second by Mr. Banicki motion carried.

Question was called for at 7:38PM for **PROPOSED ORDINANCE NO. 2020-01**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. Thus, it becomes **Ordinance NO. 5685**

PROPOSED ORDINANCE NO. 2020-05

AN ORDINANCE AMENDING CHAPTER 137 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “THE ZONING ORDINANCE OF 1966” OF THE CITY OF MISHAWAKA, INDIANA.

PUD Amendment for reduction of Landscaping Requirements Vacant Land S. of 3729 Bremen Hwy. & N. of US 20 Bypass

Mr. Emmons reported the Committee of Land Use Planning recommended this proposed ordinance should be adopted. This was signed by the entire of the committee upon a second by Mr. Banicki motion carried.

Darryl Knip, Abonmarche Consultants, spoke on the landscaping reduction. Mr. Knip said they were requesting a line of fencing to be put along the property line and relocation of trees to make the building more visible.

Mrs. Voelker asked where the fence would be installed on the property and would it affect the neighbors on Elwood Ave. Mr. Knip explained it would be placed on the north property line, it would not be on the property of the neighbors.

Mr. Compton questioned the type of power lines and trees they were proposing. Mr. Knip said the power lines were tall high-tension lines and they were considering evergreen trees. Mr. Compton asked if there was a right of way the power company owned for the property. Mr. Knip explained the company did, but the trees would be moved outside of the easement. He said he was not aware of any discrepancies with the power company. Mr. Compton questioned the type of privacy fence. Mr. Knip stated the fence would be a 6-foot wood privacy fence.

Mrs. Voelker expressed confusion on the location of the property and she felt there was not enough information. Ken Prince, City Planner began stating the property was unique and many years had been spent attempting to work on the property. Mr. Prince explained Self Storage requested approval for the property repeatedly but were not gained access. He continued to say many plans were tabled but none were executed.

Mr. Compton asked did the amendment raise any issues with neighbors. Mr. Prince replied no.

Question called for at 7:53PM for **PROPOSED ORDINANCE NO. 2020-05**  **Vote:**
Motion carried by unanimous roll call vote (summary: Yes = 9).

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. Thus, it becomes **Ordinance No. 5686**

PROPOSED ORDINANCE NO. 2020-06

AN ORDINANCE AMENDING CHAPTER 137 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “THE ZONING ORDINANCE OF 1966” OF THE CITY OF MISHAWAKA, INDIANA.

(Rezoning from C-1 Commercial to R-1 Residential for existing house and contractors business 4416 LWE)

Mr. Banicki reported the committee of Land Use Planning recommended this proposed ordinance should be adopted. This was signed by the entire committee upon a second by Mr. Mammolenti.

Tiffany Gilbert, 4016 LWE, spoke in favor of the proposed ordinance. Mrs. Gilbert stated the rezoning would bring the property into conformity.

Question was called for at 7:56PM for **PROPOSED ORDINANCE NO. 2020-06**  **Vote:**
Motion carried by unanimous roll call vote (summary: Yes = 9).

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. Thus, it becomes **Ordinance No. 5687**

PROPOSED ORDINANCE NO. 2020-07

AN ORDINANCE AMENDING CHAPTER 137 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “THE ZONING ORDINANCE OF 1966” OF THE CITY OF MISHAWAKA, INDIANA.

(Vacating areas of N. Wenger Ave between LWE and Homewood – The East 63’ of the East/West alley North of LWE – all alleys bounded by Homewood on the N. Indiana on the West and Wenger on the East – Mishawaka High School)

Mr. Banicki reported the committee of Land Use Planning recommended this proposed ordinance should be adopted. This is signed by the entire committee upon a second by Mr. Mammolenti.

Daryl Knip reiterated his pervious comments from the State Statute public hearing for Vacation R2020-01.

Mr. Hixenbaugh began stating the importance of Mishawaka High School and how it was a treasure to the community. Mr. Hixenbaugh applauded School City of Mishawaka for the outreach they conducted to arrange the neighborhood meeting and the ongoing communication to the public throughout this process.

Question was called for at 7:59PM for **PROPOSED ORDINANCE NO. 2020-07**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. Thus, it becomes **Ordinance No. 5688**

NEW BUSINESS

Mrs. Voelker announced a tour of St. Joseph Church on behalf of the Mishawaka Historic Preservation Commission would be held on March 3rd at 4PM.

Mr. Emmons announced the 1st District neighborhood meeting would be held on March 19th at 7 PM with Ross Deal as guest speaker giving a state legislative update.

Mr. Compton thanked Boy Scout troops Local 572 for their attendance.

Mr. Hixenbaugh expressed his appreciation for the Boy Scout troops for attending the meeting. He also introduced new Corporation Counsel, Pat Hinkle.

ADJOURNMENT 8:06PM

Deborah S. Block /s/
Deborah S. Block, IAMC, MMC, City Clerk

Gregg A. Hixenbaugh /s/
Gregg A. Hixenbaugh, President